DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Korea on 25 April 2001. It is noted, however, that applicant has not filed a certified copy of the foreign priority application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-13 and 15-21 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding Claims 1-13 and 15-21, Applicant recites limitations directed towards forming a coating layer with a “five-primary substance stone” composition. However, the details disclosure as originally filed is not enabled for one having ordinary skill in the art to make and use the device. Applicant discloses that "five-primary substance stone” includes as part of its critical composition “a fulcrum stone”. However, this phrase is not used in the detailed disclosure to link the "fulcrum stone" with any known chemical or physical composition. This phrase does not appear to be an art recognized term,

therefore, Examiner submits that one having ordinary skill in the art would not know how to make a “five-primary substance stone” as it is not clear what composition of matter is required to satisfy the condition of "a fulcrum stone". Applicant is required to either demonstrate that the phrase "fulcrum stone" is an art recognized term or cite specific portions of the specification that clearly convey to one having ordinary skill in the art exactly what is meant by the phrase “fulcrum stone”. Appropriate correction is required.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7, 8, 11, 13, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 7, 8, 11, 13, and 21, Applicant recites limitations drawn towards the precise composition of a “five-primary substance stone” having “10% to 20% by weight of a fulcrum stone”. However, this limitation renders the claim indefinite as it is not immediately clear what “a fulcrum stone” is. The phrase “fulcrum stone” does not appear to be an art specific term to refer to a stone of a particular molecular composition, nor has this phrase been used in Applicant’s specification with sufficient context in order to clearly and distinctly convey to one having ordinary skill in the art precisely what is a “fulcrum stone”. The customary dictionary definition of the phrase based on the constituent parts would suggest that a fulcrum stone is a stone that serves as a hinge, support, or prop about which a lever is turned. However, given this interpretation it is not clear how such a stone might be efficacious for the cited purpose

of eliminating poisons and pollutants from the human body. Applicant is required to either demonstrate that the phrase "fulcrum stone" is an art recognized term or cite specific portions of the specification that clearly convey to one having ordinary skill in the art exactly what is meant by the phrase “fulcrum stone”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 (“Daffer”) in view of US Patent No. 4,680,822 (“Fujino”), 6,272,697 (“Park"), US Patent No. 5,425,753 (“Wege"), and US Patent No. 3,946,733 (“Han”).

Regarding Claim 1, Daffer discloses a device (10) for eliminating poisons and pollutants from the human body and for revitalizing cells. Daffer discloses the device to comprise an upper cover (28) being adjustable in temperature (46) and a lower mat (14) being adjustable in temperature (35) and forming vibrators (20), wherein the upper cover and the lower mat define an interior space (16).

Daffer fails to explicitly disclose that the upper cover and the lower mat are provided with a “five-primary substance stone coating”. In the instant case the phrase “five-primary substance stone” is held to define a type of stone that is formed from at least five substances in accordance with its broadest reasonable interpretation, the phrase not being inextricably linked to any specific composition of matter. However, Fujino discloses a system configured to delivery far infrared radiation to the human body in order to improve the health thereof. Fujino discloses that this invention comprises forming a coating of "five-primary substance stone", i.e. ordinary clay, kibushi clay, pulverized silica stone, one of aluminum oxide, zirconium oxide, or silicon oxide, and water (Col. 1, Ln. 59 – Col. 2, Ln. 7). Fujino discloses that this particular compound is particularly beneficial for radiating infrared electromagnetic waves for beneficial healing effects to the human body, activating the cells and warming the body from the insider (Col. 2, Ln. 8-22). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the invention of Daffer with a five-primary substance stone coating, as disclosed by Fujino, in order to radiate beneficial infrared energy to the body, activating the cells and helping to warm the body to encourage

sweating. It is noted that Daffer discloses delivering infrared energy (46) to the body to encourage heating of the body.

In the instant case Daffer only discloses that infrared energy should be delivered from the upper cover (Fig. 28), not the lower mat. However, it is noted that Fujino discloses the infrared radiating material to be part of a bedding, i.e. a lower mat. As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the device of Daffer with an infrared radiating coating, as disclosed by Fujino, in order to ensure that the body was adequately exposed to infrared energy.

However, should Examiner's arguments not be found persuasive the following is presented. Park discloses an invention similar to that disclosed by Daffer configured to eliminate poisons and pollutants from the body by encouraging sweating (Abstract). Park discloses the device to comprise an upper cover (16) and a lower mat (54). Park discloses both the upper cover and the lower mat to be provided with infrared generating means (74) for generating far infrared radiation in order to heat and activate the user's body. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the invention of Daffer with an infrared radiation generating means, as disclosed by Park, having a infrared radiating coating, as disclosed by Fujino, in order to ensure that the user's body is adequately exposed to beneficial infrared radiation.

While Daffer does disclose that the device should be configured to circulate air via a fan/pump (61), Daffer fails to disclose that this air is provided with an herb

essence. However, Wege demonstrates that it is well known to utilize herbs to generate moist medicinal air in conjunction with steam baths/saunas (Col. 3, Ln. 44-64). Wege provides the device with an herb essence supplier (4) connected to the interior space formed between an upper cover (2) and lower mat (1), the herb essence supplier having a discharge outlet (38 and 36) connected to the interior space in order to deliver the herb essence. However, Wege fails to disclose that the herb essence supplier comprises an air pump. However, Han discloses an herb essence supplier (10) configured to deliver medical herbal air to a patient (Abstract). Han discloses the herb essence supplier to comprise a discharge outlet (58) to deliver the herbal air to the skin (Fig. 1) and an air pump (18) to supply air to the herbal essence supplier (Fig. 1). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an herbal essence supplier operatively connected to an air pump, as disclosed by Han, in order to deliver medical herbal air to the interior chamber of Daffer, as disclosed by Wege, in order to help cleanse and detoxify a patient.

Regarding Claim 4, Han discloses the herb essence supplier to comprise a combustion type herb essence supplier for burning the herb (51) contained therein to supply the perfume therefrom (Abstract).

9. Claims 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 (“Daffer”), US Patent No. 4,680,822 (“Fujino”), 6,272,697 (“Park"), US Patent No. 5,425,753 (“Wege"), and US Patent No. 3,946,733 (“Han”) as applied to Claim 1 above, and further in view of US Patent No. 5,632,768 (“Shimada”).

Regarding Claims 2, 4, and 6, Daffer, as modified, discloses the invention substantially as claimed except that herb essence supplier utilizes electrical resistive wiring to evaporate/combust the herb essence. However, Shimada discloses a system (10) configured to supply herb essence (Abstract). Shimada discloses that the device may be provided with an electrical resistive heating wire in order to evaporate the herbal essences (Col. 5, Ln. 60 – Col. 6, Ln.3). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an electrical resistive heating wire to evaporate the herbal essence of the modified invention of Daffer, as disclosed by Shimada, thereby only achieving the expected results of utilizing one well-known means of release herbal essences within an air supply.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 (“Daffer”), US Patent No. 4,680,822 (“Fujino”), 6,272,697 (“Park"), US Patent No. 5,425,753 (“Wege"), and US Patent No. 3,946,733 (“Han”) as applied to Claim 1 above, and further in view of Japanese Patent No. H-06-181878 (“Sakurai”).

Regarding Claim 3, Daffer, as modified, discloses the invention substantially as claimed except that herb essence supplier utilizes vibration to release the herb essence. However, Sakurai discloses that it is well known to release the essential oils and aromatic compounds of a substance by atomizing it with ultrasonic vibrations (Par. 4). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize vibrational forces to release the herbal essences of the modified invention of Daffer, as disclosed by Sakurai, thereby only achieving the expected results of utilizing one well-known means of release herbal essences within an air supply.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 (“Daffer”), US Patent No. 4,680,822 (“Fujino”), 6,272,697 (“Park"), US Patent No. 5,425,753 (“Wege"), and US Patent No. 3,946,733 (“Han”) as applied to Claim 4 above, and further in view of US Patent No. 4,203,438 (“Shiu”).

Regarding Claim 5, Daffer, as modified, discloses the invention substantially as claimed except that the invention comprises a plurality of herb essence suppliers provided in parallel. However, Shiu discloses an apparatus comprising a plurality of herb essence suppliers provided in parallel in order to deliver herb essence to a patient’s skin (Abstract; Fig. 6). It would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the invention of Daffer to comprise a plurality of herb essence suppliers provided in parallel, as disclosed by Shiu, in order to provide a sufficient quantity of herb essence to the patient’s tissue. It has been held that pluralizing the essential working parts of an invention requires only routine and customary skill in the art.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 (“Daffer”), US Patent No. 4,680,822 (“Fujino”), 6,272,697 (“Park"), US Patent No. 5,425,753 (“Wege"), and US Patent No. 3,946,733 (“Han”) as applied to Claim 1 above, and further in view of US Patent No. 4,747,841 (“Kuratomi”).

Regarding Claim 9, Daffer, as modified, discloses the invention substantially as claimed except that invention further comprises an attachment device connected to the discharge outlet of an herb essence supplier, the attachment device having a five-primary substance stone coating on at least a bottom surface thereof. However,

Kuratomi discloses an herb essence supplier (3) comprising an attachment device configured to contact a users body (7). Kuratomi discloses that the herb essence supplier is configured to radiate infrared energy to the user's tissue (Col. 3, Ln. 29-31). While Kuratomi fails to explicitly disclose that the attachment device is provided with a five-primary substance stone coating, as discussed above, Fujino discloses a five-primary stone coating configured to radiate infrared energy (Col. 2, Ln. 8-22). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the attachment device of the invention of Kuratomi with a five primary substance stone coating, as disclosed by Fujino, in order to better radiate infrared energy to a patient's tissue. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the herbal essence suppliers of the invention of Daffer with an attachment device comprising a five-primary stone coating, as disclosed by Kuratomi in view of Fujino, in order to deliver targeted infrared energy to various localized tissue areas.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claim 1 above, and further in view of US Patent No. 6,013,021 ("Lee").

Regarding Claim 10, Daffer, as modified, discloses the invention substantially as claimed except that air pump provides negatively ionized air. However, Lee discloses using an air pump to deliver negatively ionized air to a user's tissue in order to revitalize their cells (Abstract; Col. 2, Ln. 63 - Col. 3, Ln. 21). It would have been obvious for one

having ordinary skill in the art at the time the invention was made to configure the pump of the modified invention of Daffer to deliver negatively ionized air, as disclosed by Lee, in order obtain the beneficial effects of such an air source, revitalizing a user's cell tissue.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM CARPENTER whose telephone number is (571)270-3637. The examiner can normally be reached on Monday through Thursday from 7:00AM-4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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